

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,)	No. ED101513
)	
vs.)	Appeal from the Circuit Court
)	of the City of St. Louis
SEAN MAURICE JOHNSON, Appellant.)	Hon. Thomas C. Grady
)	Filed: September 22, 2015

Sean Maurice Johnson (“Defendant”) appeals from the judgment of the trial court upon his convictions for first-degree assault, Section 565.050, RSMo 2000,¹ and armed criminal action, Section 571.015. Defendant argues the trial court: (1) erred in not *sua sponte* ordering an evaluation of, and deciding to hold a hearing concerning, Defendant’s competency to understand the proceedings against him and to assist in his own defense because there was reasonable cause to believe Defendant was not competent; (2) abused its discretion in not granting Defendant’s request for a continuance to have his competency evaluated; (3) plainly erred in ordering Defendant to be removed from the courtroom during the first half of the State’s argument until the case was submitted to the jury; and (4) erred in refusing his Instruction A for the lesser-included offense of second-degree assault.

REVERSED AND REMANDED.

Division One Holds: The trial court erred in refusing to instruct on the lesser-included offense of second-degree assault.

Opinion by: Robert G. Dowd, Jr., P.J.
Lisa S. Van Amburg, C. J. and Roy L. Richter, J., concur.

Attorney for Appellant: Lisa M. Stroup

Attorney for Respondent: Shaun J. Mackelprang

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>

¹ All further statutory references are to RSMo 2000, unless otherwise indicated.